man v. *Rohan* (1918) 37 Cal. App. 678, 178 Pac. 349; *Trust Co. of America* v. *Conklin* (1909) 65 Misc. 1,119 N. Y. Supp. 367. Although the depositor is under a duty to verify returned vouchers, the bank cannot avail itself of the depositor's failure to discharge this duty, if the overpayment were due to its own negligence. *New York Produce Exchange Bank* v. *Houston* (C. C. A. 1909) 169 Fed. 785. But if the bank has used due care, it may be relieved from liability, where the depositor neglects to check over the vouchers, and the bank is misled to its prejudice. *Morgan* v. *United States Mortgage etc. Co.* (1913) 208 N. Y. 219, 101 N. E. 871; *Leather Mfg. Bank* v. *Morgan* (1886) 117 U. S. 96, 6 Sup. Ct. 657. This is especially true where the bank requires its depositors to notify them of any discrepancies. *California Vegetable Union* v. *Crockler Nat'l. Bank, supra.* In the instant case insofar as the bank was led to continue cashing the altered checks, or had lost an opportunity to secure restitution, it would seem the bank should be relieved of its liability. *Cf. Critten* v. *Chemical Nat'l. Bank, supra;* 2 Columbia Law Rev. 490.

CONTEMPT—FAILURE TO OBEY COURT ORDER ON ADVICE OF COUNSEL.—On the advice of his attorney that an order staying supplemental proceedings would be obtained from the bankruptcy court before the date set for examination, the defendant debtor failed to appear therefor. Through delay the order was not signed until such date. *Held,* the defendant is not guilty of wilful contempt of court. *Goldberg* v. *Zimet* (App. Div., 1st Dept., 1920) 180 N. Y. Supp. 273.

This is a civil and not a criminal contempt in that it is merely a failure "to do something which the contemner is ordered by the court to do for the benefit or advantage of another party to the proceedings before the court". Rapalje, Contempt § 21; see *Ex parte Dickens* (1909) 162 Ala. 272, 276, 50 So. 218; *Gordon* v. *Commonwealth* (1911) 141 Ky. 461, 133 S. W. 206. The question of offense to the dignity of the court is of but minor importance in a case of this sort. See *Witmer* v. *Polk County Dist. Ct.* (1912) 155 Iowa 244, 251, 136 N. W. 113. The defendant was undoubtedly in contempt, punishment for which would have given him little cause for complaint. The court's order was disobeyed and the defendant most certainly intended to disobey it, within the legal meaning of "intent". *Cf. Ellis* v. *United States* (1906) 206 U. S. 246, 257, 27 Sup. Ct. 600. The only question at issue is whether the advice of counsel is sufficient excuse to relieve the defendant. It has been held that where the defendant acts in good faith, advice of counsel may mitigate the damages. *State* v. *Harper's Ferry Bridge Co.* (1879) 16 W. Va. 864; see *Carr* v. *District Court* (1910) 147 Ia. 663, 674, 126 N. W. 791. But, as a general rule, courts have refused to treat this as a complete defense. *State* v. *Harper's Ferry Bridge Co., supra; Stolts* v. *Tuska* (1903) 82 App. Div. 81, 81 N. Y. Supp. 638; *West Jersey Traction Co.* v. *Camden* (1895) 58 N. J. L. 536, 37 Atl. 578; *contra, In re Zeigler* (1911) 189 Fed. 259. The court in the instant case was influenced by the fact that the plaintiff was not damaged by the defendant's failure to appear, since, because of the bankruptcy proceedings, such examination would have been presumptively useless. But since the court had ordered him to appear, and the plaintiff had the right to insist upon his appearance, the plaintiff should at least have been spared court costs.